**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT :**

**THE HONOURABLE MR. JUSTICE K.M.JOSEPH**

**TUESDAY, THE 31ST JULY 2007 / 9TH SRAVANA 1929**

**WP(C).No. 8812 of 2007(Y)**
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**PETITIONER:**
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**CHARLEY KOLATHU, PRESIDENT,**
**CHANNAPETTA SERVICE CO-OPERATIVE BANK LTD NO.358,**
**CHANNAPETTA, KOLLAM DISTRICT.**

**BY ADV. SRI.K.RAMAKUMAR**

**RESPONDENT:**
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**THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES(GENERAL),KOLLAM.**

**BY SPL. GOVERNMENT PLEADER SMT. A.G.ANITHA**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 31/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

**WPC.NO.8812/2007 Y**

**APPENDIX**

**PETITIONER'S EXHIBITS:**

**EXT.P1: COPY OF THE SHOW CAUSE NOTICE DTD. 2/03/2007 ISSUED BY THE RESPONDENT TO THE PETITIONER.**

**EXT.P2: COPY OF THE EXPLANATION DTD. 13/03/2007 SUBMITTED BY THE PETITIONER BEFORE THE RESPONDENT.**

**EXT.P3: COPY OF ORDER DTD. 28/04/2007 ISSUED BY THE RESPONDENT.**

**1ST RESPONDENT'S EXHIBITS:**

**EXT.R1(A): COPY OF THE INSPECTION REPORT.**

**EXT.R1(B): COPY OF THE CIRCULAR NO.32/01.**

**EXT.R1(C): COPY OF THE CLAUSE 58(2) OF THE BYE-LAWS OF THE SOCIETY.**

**EXT.R1(D): COPY OF THE VOUCHER NO.130 DTD. 05/04/04 FOR RS.15,000/-.**

**EXT.R1(E): COPY OF THE VOUCHER NO.2860 DTD. 17/12/04 FOR RS.25,000/-.**

**EXT.R1(F): COPY OF THE VOUCHER NO.1478 DTD. 23/08/05 FOR RS.20,000/-.**

**EXT.R1(G): COPY OF THE VOUCHER NO.113 DTD. 5/04/05 FOR RS.5.000/-.**

**EXT.R1(H): COPY OF THE VOUCHER NO.7903 DTD. 14/02/06 FOR RS.5,000/-.**

**EXT.R1(I): COPY OF THE APPROVED SUB RULES FOR GRANTING DAILY COLLECTION LOAN.**

**EXT.R1(J): COPY OF THE APPROVED SUB RULES FOR GRANTING HOUSE LOANS TO EMPLOYEES OF THE SOCIETY.**

**/TRUE COPY/**

**P.A.TO JUDGE**

*KSS*

**K.M.JOSEPH, J.**

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WP.(C) No. 8812 of 2007

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Dated this the 31st day of July, 2007

**JUDGMENT**

Petitioner seeks a mandamus forbearing the respondent from implementing the order on the proceedings initiated under Section 32 of the Kerala Co-operative Societies Act without first furnishing a copy of the order to the petitioner and giving a chance to avail the legal remedies. Petitioner further seeks a mandamus forbearing the respondent from directing the Administrator to take charge of Channapetta Service Co-operative Bank without the petitioner being granted an opportunity in accordance with law. After amendment the petitioner has also challenged Exts.P3. Ext.P3 is an order passed under Section 32 superseding the society of which the petitioner is the President, namely Channapetta Service Co-operative Bank. Petitioner has challenged the order on various reasons included in additional ground B. Petitioner contends that at any rate the matter can be decided on the basis of the decision in W.P.(C) Nos.9810 and 10100 of 2007. Therein this court held that the consultation contemplated under

Section 32 also includes the need to make available the explanation given by the petitioner as also the tentative findings of the Joint Registrar before an order can be passed under Section 32. In this case the learned Government Pleader does not dispute the fact that there is no consultation as held necessary by this court in the judgment of this court in W.P.(C) Nos. 9810 and 10100 of 2007 following the decisions of this court reported in **Jose Kuttiyani v. Registrar, Co-operative Societies** (AIR 1982 Ker. 12) and in **Sahadevan v. Padmanabhan** (2004(1) K.L.T. 192).

2. In view of the fact that it is admitted that consultation has not taken place as mandated in law and following the judgment of this court in W.P.(C) Nos.9810 and 10100 of 2007, I feel that Ext.P3 is only to be quashed.

Accordingly Ext.P3 is quashed leaving open the other contentions of the petitioner. However I make it clear that it will not stand in the way of the Registrar passing fresh orders in accordance with law. Before passing fresh order he has necessarily to forward the reply given by the petitioner and the tentative findings of the Registrar

to the institutions with whom the respondent was obliged to make consultation for seeking their view on the proposal to supersede.

(K.M. JOSEPH, JUDGE)

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